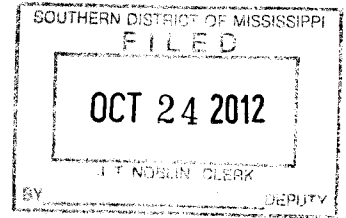


**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI**



United States of America,

Plaintiff,

v.

City of Meridian; County of Lauderdale; Judge  
Frank Coleman, in his official capacity; Judge  
Veldore Young, in her official capacity; State  
of Mississippi; Mississippi Department of  
Human Services; and Mississippi Division of  
Youth Services

Defendants.

Civil No.

4:12 CV 168 HTW  
LRA

**COMPLAINT**

**INTRODUCTION**

1. Collectively, Defendants engage in a pattern or practice of unlawful conduct through which they routinely and systematically arrest and incarcerate children, including for minor school rule infractions, without even the most basic procedural safeguards, and in violation of these children's constitutional rights.

2. Defendant City of Meridian violates children's rights through the Meridian Police Department. Defendant County of Lauderdale, Mississippi violates children's rights through the Lauderdale County Youth Court, and Defendant Youth Court Judges Frank Coleman and Veldore Young violate children's rights in their official capacities as Lauderdale County Youth Court Judges. Defendant State of Mississippi violates children's rights through the Department of Human Services, and its sub-agency, Division of Youth Services.

3. Defendants do not afford children in the juvenile justice system even the minimum procedural safeguards required by the Constitution. As a result, (1) the City of

Meridian engages in a pattern or practice of arresting children in school without probable cause; (2) Lauderdale County and the Youth Court Judges engage in a pattern or practice of authorizing the repeated incarceration of children without essentials of fairness and due process such as a timely hearing to determine whether there is probable cause to detain them, and meaningful representation by an attorney; (3) the Mississippi Division of Youth Services, Lauderdale County, and the Youth Court Judges engage in a pattern or practice of placing children on probation and incarcerating children for alleged probation violations without affording children constitutionally required protections such as reasonable opportunities to understand their probation requirements or hearings to challenge alleged probation violations that could result in incarceration; and (4) Defendants collectively engage in a pattern or practice of imposing disproportionate and severe consequences, including incarceration, for technical probation violations such as school suspensions, without any due process whatsoever.

4. Defendants' concerted actions punish children in Meridian, Mississippi so arbitrarily and severely as to shock the conscience, and deprive these children of liberty and educational opportunities on an ongoing basis.

5. The repercussions of the constitutional violations perpetrated by Defendants are severe and far-reaching. Children are regularly and repeatedly handcuffed and arrested in school and incarcerated for days at a time without a probable cause hearing, regardless of the severity—or lack thereof—of the alleged offense or probation violation.

6. Research suggests that arrest, detention, and juvenile court appearances have profound negative short-term and long-term consequences for children's mental and physical health, educational success, and future employment opportunities. One study of national data

suggests that arrest doubles the probability of dropout. Even one court appearance during high school increases a child's likelihood of dropping out of school, and court appearances are especially detrimental to children with no or minimal previous history of delinquency. Detention disrupts children's engagement with families, school, and work, and may slow or interrupt the natural process of "aging out" of delinquency. Moreover, children detained pending adjudication are more likely to be committed to a juvenile facility than children who are not detained, regardless of the charges against them. Research links incarceration of juveniles to significantly higher school dropout rates, which translate to higher unemployment, poorer health, shorter lifespan, lower earnings, and increased future contacts with the criminal justice system.

7. In addition to harming children, Defendants' pattern or practice of prolonged and procedurally flawed incarceration of children pending adjudication or as a result of alleged probation violations is not justified by public safety considerations.

8. The effects of the constitutional violations effectuated by Defendants in the administration of juvenile justice are particularly grievous and pronounced for black children and children with disabilities in the Meridian Public School District.

9. The Department of Justice ("DOJ") notified the City of Meridian and the Lauderdale County Youth Court of its investigation into these practices on December 1, 2011. On June 29, 2012, DOJ notified the State of Mississippi of the expansion of this investigation to include the Division of Youth Services, in relation to the administration of juvenile justice in Lauderdale County.

10. Defendants have denied DOJ access to youth records from the Meridian Police Department, the Lauderdale County Youth Court, and the Mississippi Division of Youth

Services throughout DOJ's investigation, as well as denied DOJ access to observe youth court proceedings and interview youth court and juvenile detention center personnel.

11. On August 10, 2012, DOJ notified all Defendants of its investigatory findings via phone calls to Defendants' attorneys and a letter describing the findings. In this letter, DOJ provided notice of its findings that Defendants are violating the constitutional rights of children in Meridian and Lauderdale County as alleged herein, and notified Defendants that the United States would file a federal lawsuit against Defendants within 60 days, unless Defendants engaged in meaningful negotiations in that time to resolve the alleged violations.

12. Defendants did not offer any indication that they would be willing, either collectively or individually, to engage in meaningful negotiations to resolve the alleged violations. Rather, City and County Defendants issued a letter dated August 23, 2012, in which Defendants denied all allegations. State Defendants communicated via a letter dated September 11, 2012 that the Division of Youth Services has made unspecified changes in its general probation policies, but these changes do not appear to resolve the violations in Lauderdale County.

13. DOJ responded to both the City and County's letter and the State's letter with letters reiterating DOJ's findings of constitutional violations and again requesting that Defendants engage in negotiations with DOJ to resolve the violations.

14. In a letter received by DOJ on September 24, 2012, City Defendants asserted that they recently changed their policies regarding how police officers respond to District requests

for police assistance, and that DOJ's violation findings against the City are therefore moot.<sup>1</sup>

In a letter received by DOJ on September 24, 2012, County Defendants continued to deny all allegations.

15. Although, subsequent to DOJ's opening of its investigation and issuance of findings, City and State Defendants appear to have directed suspension of some of the police and probation practices described herein, these changes do not meaningfully or fully remedy the constitutional violations described herein, nor do the changes appear permanent. Most of the purported changes are very recent, occurring only within the 60-day period following the findings letter in which DOJ said Defendants must engage in meaningful negotiations to remedy violations or face federal court litigation.

16. Defendants continue to deny DOJ access to information necessary to assess the implementation, extent, and impact of any purported changes. The City and County Defendants have repeatedly indicated that DOJ should seek federal court assistance in obtaining youth records.

17. Federal court intervention is warranted because Defendants have engaged and continue to engage in a pattern or practice of violating the constitutional rights of children under the Fourth, Fifth, and Fourteenth Amendments, and because court intervention is necessary to ensure that unlawful conduct does not recur.

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<sup>1</sup> The letter received September 24, 2012 reports that this policy changed was made on August 23, 2012, but City Defendant's prior correspondence to DOJ dated August 23, 2012 made no mention of this change in policy.

### **JURISDICTION AND VENUE**

18. The United States brings this action against Defendants pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, which authorizes the Attorney General to initiate a civil action for appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

19. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345.

20. Venue in the Southern District of Mississippi is proper under 28 U.S.C. § 1391(b) because Defendants are located in this District and the events, actions, or omissions giving rise to the claims herein occurred in the Southern District of Mississippi.

### **DEFENDANTS**

21. Defendant City of Meridian (“City” or “Meridian”) is a municipality within the State of Mississippi. The City, through its Mayor, is responsible for supervising the Meridian Police Department (“MPD”). The Meridian Municipal Code states that “[t]he chief of police shall, under the general direction and control of the mayor, be the head of the city's police department including all divisions of such department.” Sec. 18-2 (General Duties of Chief; Supervision by Mayor).

22. Defendant County of Lauderdale (“County” or “Lauderdale”) is a county within the State of Mississippi that encompasses Meridian, Mississippi. The County operates and administers the Lauderdale County Juvenile Center (“Juvenile Center”) and the Lauderdale

County Youth Court (“Youth Court”), which have jurisdiction over juveniles in Lauderdale County, including Meridian.

23. Defendant Judge Frank Coleman is the senior presiding judge of the Lauderdale County Youth Court. In his capacity as senior judge, Judge Coleman is also responsible for overseeing administration of the Youth Court. Judge Coleman is named as a defendant in his official capacity.

24. Defendant Judge Veldore Young is a presiding judge of the Lauderdale County Youth Court. Judge Young is responsible for assisting in the administration of the Youth Court. Judge Young is named as a defendant in her official capacity.

25. Defendant State of Mississippi is responsible for the administration of juvenile justice by state agencies, including the Department of Human Services, and its sub-agency, the Division of Youth Services.

26. Defendant Mississippi Department of Human Services (“DHS”) is a government agency of the State of Mississippi. DHS has oversight of the Division of Youth Services, which administers juvenile probation services.

27. Defendant Mississippi Division of Youth Services (“DYS”) is a division of DHS and administers probation and aftercare services and institutional programs for juveniles who have been adjudged delinquent in Mississippi Youth Courts or are at risk of becoming delinquent. DHS establishes policies and procedures for probation programs statewide, and employs and supervises the youth probation officers (“youth counselors”) who work in the Lauderdale County juvenile justice system.

## **STATEMENT OF FACTS**

### **Background Regarding Population Affected by Practices of Defendants**

28. Approximately 6,069 students are enrolled in the twelve schools in the Meridian Public School District (“District”), including six elementary schools, three junior high and middle schools, one high school, one vocational center, and one alternative school, which the District’s Student Handbook describes as a school “for students in grade K-12 who have exhibited behavior problems in the regular education setting .”

29. While Meridian’s overall population is approximately 62% black, 36% white, 2% Hispanic, and 1% Asian, the District has a student enrollment that is approximately 86% black, 12% white, 1% Hispanic, and 1% Asian.

30. Eighty-three percent of District students receive free and reduced lunch, compared to 71% of all public school students in Mississippi.

31. Approximately 13%, or 814, of District students have been identified as eligible for an Individualized Education Program under the Individuals with Disabilities Education Act (“IDEA”). The IDEA, Section 504 of the Rehabilitation Act (“Section 504”), and the Americans with Disabilities Act (“ADA”) all entitle school-aged children with disabilities to a free appropriate public education. Both Section 504 and the ADA protect individuals with disabilities, including children, from disability-based discrimination.

32. During the 2006-2007, 2007-2008, 2008-2009, and first semester of the 2009-2010 school years, all of the students referred to law enforcement by the District were black, all of the students expelled were black, and 96 percent of the students suspended were black.

33. During the first semester of the 2011-2012 school year, eleven of twelve students expelled by the District were black, and approximately 97 percent of the students given out of school suspensions were black.

34. The District's rate of expulsions and out of school suspensions longer than ten days is almost seven times the rate for Mississippi generally.

35. The District's rate of expulsions and out of school suspensions for students with individualized education programs is also approximately seven times higher than the rate for Mississippi schools generally.

Defendants in this Case Collectively Help to Operate a School-to-Prison Pipeline

36. Defendants in this case collectively help to operate a school-to-prison pipeline whereby, following referral of students by the District, MPD, the Youth Court<sup>2</sup>, and probation services (DYS), arrest, adjudicate, and incarcerate children for school infractions without exercising appropriate discretion and without regard for their obligations under the United States Constitution.

37. MPD automatically arrests all students referred to MPD by the District, which employs a system of severe and arbitrary discipline that disproportionately impacts black children and children with disabilities.

38. The children arrested by MPD are then sent to the County juvenile justice system, where existing due process protections are illusory and inadequate. The Youth Court

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<sup>2</sup> Defendant Lauderdale County and Defendant Youth Court Judges Coleman and Young violate children's constitutional rights through their roles in administering juvenile justice through the Youth Court. Throughout this Complaint, references to actions, policies, and practices of the Youth Court should be understood to include actions, policies, and practices of the County and the Youth Court Judges.

places children on probation, and the terms of the probation set by the Youth Court and DYS require children once on probation to serve any suspensions from school incarcerated in the juvenile detention center.

39. Once Defendants—collectively, the administrators of the juvenile justice system—place a child from the District in this cycle, he or she is repeatedly subjected to unconstitutional government action and potential incarceration without procedural safeguards.

40. The Youth Court Judges, who are responsible for ensuring that children are treated in accord with constitutional and legal guarantees of fairness and neutrality, acknowledge this cycle, including the over-referral of children from the District to the Lauderdale County juvenile justice system, but aver that their “hands are tied” and they are powerless to change the system.

41. The extreme interconnectedness of Defendants’ actions operates to blur the lines between school infraction and criminal offense; accusation and adjudication; and minor punishment and secure detention, so completely as to vitiate the protections of due process.

Defendants’ Actions Cause Serious Harm to Children in the Juvenile Justice System

42. Defendants’ actions, as alleged herein, have severe and long-lasting consequences for children in the juvenile justice system. For example, some children are ultimately incarcerated in the State juvenile prison as a result of accumulating juvenile records that include repeated probation violations for suspensions from school.

43. Many children who go through the Lauderdale County juvenile justice system and are incarcerated for even short periods of time are forced to return repeatedly to the District alternative school because they are suspended and incarcerated so often that they

cannot complete the number of days of instruction the alternative school requires in order to return to their home schools.

44. The educational opportunities available at the alternative school are not equal to those provided at the regular schools, and the disciplinary consequences at the alternative school are harsher.

45. Children do not receive adequate educational opportunities when they are incarcerated in the juvenile detention center. As a result, they are likely to fall further behind in school, which, in turn, can exacerbate any preexisting behavioral difficulties.

46. Defendants have continued their actions despite continuing complaints from community members, advocates, and parents calling Defendants' attention to the severe and harmful effects of their policies and practices.

The Nature of Referrals to the Meridian Police Department by the District

47. MPD is the law enforcement agency that receives and responds to referrals of students from the District.

48. The referrals have included a range of alleged behaviors, from offenses typically understood to be "criminal," including possession of drugs or weapons, to conduct that would traditionally be considered to constitute only a school disciplinary infraction, including disrespect, refusal to follow the directions of a teacher, and profanity.

49. According to the District code of conduct, disciplinary consequences are more severe for students enrolled in the Marion Park alternative school, which is the school many of the children involved in the juvenile justice system attend for at least some period of time.

50. In recent years, the District adopted increasingly strict disciplinary policies and/or practices, including, in or around March 2010, issuing a directive that required school

personnel at the middle and high schools to notify law enforcement when students in sixth through twelfth grade were involved in a fight, regardless of whether a student was alleged to be the aggressor or victim.

51. The City has asserted that, as of August 23, 2012, MPD responds to referrals of students from the District for “incidents related to the commission of a felony, physical violence, weapons or illegal drugs, or based upon an order from a Youth Court Judge or Judge of a Court of other competent jurisdiction.” MPD’s contemporaneous instructions to its officers included “fights” in the types of incidents to which officers should respond.

52. Since the start of the 2012-2013 school year, at least one District student has been arrested for behavior at school amounting to “defiance” or “disrespect.”

53. It is the policy and/or practice of the District to suspend students for behavior including dress code violations, profanity, “talking back” or disrespect to teachers, and “disrupting” the classroom. In Lauderdale County, any suspension from school is a violation of probation for students who are on probation through the Youth Court and DYS. The probation contract is considered a court order that authorizes MPD officers to arrest youth.

54. At least through the 2011-2012 school year, the District routinely referred to MPD or the Juvenile Center students who were suspended from school and who were known or suspected by District personnel to be on probation.

55. In or around December 2011, the District began the process of establishing an internal “police department” for the District, referred to as the Meridian Public School District Police Department (“District Police Department”). The District school board officially established the District Police Department in or around March 2012.

56. The District Police Department currently consists of four staff referred to as “school resource officers,” including a Chief and three officers.

57. The District Police Department does not currently effectuate arrests and other law enforcement activities typical of sworn law enforcement officers.

58. As a result, Meridian and the District continue to utilize and depend upon the services of MPD to effectuate arrests of District students referred to law enforcement.

The Meridian Police Department Automatically Arrests Students Referred By The Meridian Public School District Without Assessing Probable Cause

59. Referrals of District students to MPD generally occur in the following ways: (a) The District makes a referral by contacting MPD directly concerning either a new charge or a probation violation; (b) District personnel contact the Juvenile Center to inform them a child has been suspended and may have violated probation<sup>3</sup>; or (c) staff at the Juvenile Center notify MPD that a child has violated his or her probation and needs to be picked up at a school.

60. After receiving a call for service to a District school, MPD then dispatches an officer to the school to arrest the child.

61. When the MPD officer arrives at school, the officer generally meets the student in or near the principal’s office. If the student has not already been sent to the principal’s office, the school security officer will usually escort the student to the MPD officer. The

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<sup>3</sup> The District Superintendent directed District personnel to suspend this practice on January 26, 2012. It is unclear whether this direction resulted in a change in practice.

school administrator or security officer then informs the MPD officer that the student should be arrested.

62. MPD's practice is to arrest all students referred by the District, regardless of whether information is conveyed regarding the allegation, and the sufficiency of the allegation. In fact, MPD's August 23, 2012 revision of its policy explicitly acknowledges a practice of officers signing affidavits for charges that officers did not observe, directing officers to stop this procedure.

63. MPD officers conduct all in-school arrests in the same manner, regardless of whether the child is alleged to have violated probation by being suspended from school, or whether the child is alleged to have committed a new offense.

64. MPD officers do not exercise discretion in deciding whether to arrest a child referred by District.

65. Even when there is an allegation of a new offense, MPD officers do not perform independent inquiries or investigations regarding the allegations against the child.

66. There is no minimum threshold of information concerning alleged charges or probation violations required by MPD officers in order to make an arrest of a child referred by the District.

67. When MPD officers arrest students for probation violations, District staff do not routinely convey any information about the alleged infractions to the MPD officers. Sometimes the MPD officers do not know the basis for the alleged probation violation.

68. When MPD officers arrest a child in school, they handcuff the child, regardless of age, place the child in the back of a police car, and transport the child either to MPD headquarters or, in the case of a violation of probation, directly to the Juvenile Center.

69. Through at least August 23, 2012, after arresting a child on a new charge, MPD transported the child to MPD headquarters from school and held the child at MPD headquarters pending an initial decision by an intake officer at the Juvenile Center about whether or not to incarcerate the child pending adjudication.

70. MPD command staff and officers have characterized the role of MPD in the arrest and transport of District students as “just a taxi service” between the District and the Juvenile Center.

71. DOJ interviewed MPD command staff, sworn officers, and other MPD personnel in February 2012. Immediately following these interviews, DOJ attorneys provided an “exit interview” to MPD command staff, in which DOJ stated its preliminary findings that MPD officers do not appropriately assess probable cause when arresting students, in violation of the Fourth Amendment.

72. Despite the information provided in this exit meeting, MPD did not change any policies or procedures concerning arrests of students until August 23, 2012, after receiving DOJ’s August 10, 2012 letter of findings and notice that DOJ would file litigation within 60 days unless MPD participated in meaningful negotiations to resolve the violations.

73. MPD’s August 23, 2012 policy revision directed officers to stop transporting juveniles from school grounds, unless the offense “happened in the view of the officer.” It is unclear how MPD officers will respond to referrals from the District for incidents such as weapons or drugs charges without transporting students. MPD’s contemporaneous direction to its officers around the time of this policy was to continue to answer calls concerning drugs, fights, weapons, and felonious incidents at the schools and “take appropriate actions,” but not

to sign affidavits on juveniles or transport a juvenile from school grounds unless directed to do so by a Youth Court Judge.

74. MPD's August 23, 2012 policy revision does not require or even refer to probable cause in order to effectuate arrests of students.

The Initial Decision to Incarcerate a Child Pending Adjudication Is Made Without Regard to Probable Cause and Without Adequate Procedural Protections

75. An intake officer at the Juvenile Center makes the initial decision about whether or not to incarcerate a child who has been arrested pending adjudication. In Lauderdale County, intake officers also serve as designees of the Youth Court Judges.

76. The intake officer makes the decision about whether or not to incarcerate the child while the child is detained by MPD. If a child is to be incarcerated, the intake officer issues a temporary custody order and transmits the order to MPD. MPD then transports the child to the Juvenile Center.

77. Mississippi law requires that a child shall not be held in custody for a period exceeding twenty-four hours, and shall be released to his parent, guardian or custodian unless the judge or his designee authorizes temporary custody. Temporary custody may be authorized only if custody is "necessary" and there are no reasonable alternatives. Custody is deemed "necessary" only "(i) When a child is endangered or any person would be endangered by the child; or (ii) to insure the child's attendance in court at such time as required; or (iii) when a parent, guardian or custodian is not available to provide for the care and supervision of the child." (Miss. Code § 43-21-301(3)(b)).

78. Although custody order forms used by the intake officers to authorize temporary custody recite that the relevant Mississippi criteria have been met, on information and belief,

intake officers do not actually perform any meaningful analysis to determine whether these criteria are indeed satisfied before removing the child from a guardian's custody and incarcerating the child.

79. When the intake officer orders temporary custody of a child, the intake officer also orders that custody be transferred from the child's guardian to Lauderdale County. At the time of this decision, no hearing is held and no defense attorney is made available by the County to the child.

80. On information and belief, in the process of ordering temporary detention, the County takes no steps to advise a child of a right to request counsel or the criteria used to determine attorney appointment.

81. The intake officer does not question the child, the arresting officer, the complainant, or any witnesses when making a determination regarding incarceration.

82. On information and belief, the intake officer does not make any determination as to the sufficiency of the information or evidence underlying the alleged violation in issuing the custody order.

83. The custody order does not reflect any documented consideration of probable cause by the intake officer.

84. On information and belief, the intake officer does not make a probable cause determination when issuing a custody order.

85. The intake officer also decides, in the first instance, whether the charge will be handled "informally" or "formally," as those terms are used in the Mississippi State Code and Youth Court documents. When a charge is handled "informally," it is considered a diversion process and a child may receive a range of "adjustments" from "advice and counseling" to an

“Informal Adjustment Contract,” that can result in the child being on probation for a period of 90 to 120 days.

86. On information and belief, these adjustments are imposed solely by the intake officer without supervision or review by a Youth Court Judge and without making a defense attorney available to the child.

87. The Informal Adjustment Contract requires a child to waive the right to a formal hearing, representation by legal counsel, and possible dispositional alternatives.

88. When a child enters the Juvenile Center with a new charge that will be handled “formally,” the intake officer offers the child the opportunity to sign an “Intake Election” form, through which the child “advises” the intake officer that the child intends “to make an admission to the formal charges.” The Intake Election form states that the child will consult with an attorney on a later plea date. If the child then decides to change his or her plea and request a trial, the form states that the case will be continued and reset on another day.

89. At the time the child is presented with the “intake election” form by the intake officer, Lauderdale County does not afford the child representation by an attorney.

90. At the time the child is presented with the Intake Election form by the intake officer, the child is not advised of his or her *Miranda* rights nor does the intake officer obtain an informed waiver of those rights.

The County Does Not Provide Youth Court Proceedings That Satisfy the Due Process  
Requirements of the Constitution

91. The first opportunity Lauderdale County provides for review of a child’s incarceration is at a detention hearing in front of the Youth Court Judge.

92. The Youth Court holds hearings for all juvenile proceedings on Tuesday and Thursday mornings. The Youth Court may recently have added an additional Monday morning hearing to its calendar.

93. These proceedings include “detention hearings,” which is the term used by Lauderdale County to describe the first hearing available to a juvenile who is incarcerated pending charges, as well as adjudication hearings, and disposition hearings.

94. Detention hearings are held only on Tuesdays and Thursdays, and now purportedly Mondays, regardless of when a child is first incarcerated. For example, if a child is incarcerated on a charge on a Thursday afternoon, the child will not have a hearing in front of a Youth Court judge until the next Monday or Tuesday, at the earliest. This means that the child could spend at least four days incarcerated prior to a hearing.

95. As a result of this practice, children who are incarcerated prior to adjudication in the Lauderdale County system regularly wait more than 48 hours for a detention hearing, in violation of federal Constitutional requirements.

96. The Youth Court holds detention hearings for the purpose of determining whether the criteria for pre-trial incarceration of a child under Mississippi state law are satisfied.

97. The detention hearings do not constitute probable cause hearings, during which a judicial officer would determine whether probable cause exists to believe that a child has committed an offense within the jurisdiction of the Youth Court.

98. Lauderdale County does not consistently afford children representation by an attorney in preparation for and during detention hearings.

99. To the extent to which an attorney is appointed to represent a child at the detention hearing, the child is not afforded a meaningful opportunity to consult with the attorney prior to the hearing, nor does the attorney provide meaningful or effective representation at the hearing.

100. Lauderdale County has held detention hearings without the presence of the child and/or guardian of the child whose liberty is at stake.

101. Moreover, County staff at the Juvenile Center sometimes advise guardians who call the Juvenile Center that they should not attend the hearing.

102. The Youth Court regularly holds adjudication and disposition hearings for juveniles consecutively on the same day.

103. Lauderdale County does not consistently afford children representation by an attorney in preparation for and during adjudication and disposition hearings.

104. Lauderdale County has held adjudication hearings without the presence of the child and/or guardian of the child who has been charged.

105. When an attorney is appointed to represent a child for detention, adjudication, and disposition hearings, the child is afforded only minutes to consult with the attorney prior to the hearing, and this consultation regularly takes place in a non-confidential setting.

106. Lauderdale County utilizes a single public defender almost exclusively to represent children in Youth Court proceedings. This public defender is appointed by the Youth Court, and his contract is subject to approval by the Youth Court.

107. The public defender furnished by Lauderdale County does not provide a means for children and their guardians to contact him, and has refused to meet with them at any other time except just prior to court.

108. The public defender furnished by Lauderdale County regularly meets with children in a hallway directly outside the courtroom, where other youth await hearings and Juvenile Center staff may see and hear what is said during the attorney consultation.

109. The public defender furnished by Lauderdale County does not meaningfully advise children of the possible consequences of admitting to charges or of proceeding to trial.

110. On information and belief, children are not afforded a meaningful opportunity to call witnesses on their own behalf at adjudication and disposition hearings.

111. The public defender furnished by Lauderdale County does not satisfy the County's due process obligation to provide effective representation for children before the Youth Court because he routinely fails to meaningfully: (1) explain the court proceedings to children and their parents; (2) participate in the court proceedings on their behalf; or (3) assist children in defending against the charges brought against them by presenting witnesses or evidence on their behalf.

The Probation Contracts Used by Lauderdale County and Division of Youth Services  
Mandate Incarceration as Punishment for School Suspensions and Do Not Adequately Inform  
Children about Their Rights

112. The Youth Court regularly imposes supervised probation on children in Lauderdale County as part of the disposition order.

113. The DYS "youth counselors" (probation officers) in Lauderdale County, typically present a recommendation to the Youth Court concerning specific probation requirements for each child. During the disposition hearing, the Youth Court decides which of these requirements to include in the dispositional order. The Youth Court also orders the

child to comply with all the rules or regulations set forth by the probation contract provided by the youth counselor in Lauderdale County.

114. When a child is placed on probation by the Youth Court as part of the disposition, the youth counselor explains the probation contract to the child and the child's guardian.

115. The standard probation contract used by youth counselors and the Youth Court in Lauderdale County contains a provision that reads: **"MANDATORY SCHOOL ATTENDANCE WITH NO SUSPENSIONS, UNEXCUSED ABSENCES, OR TARDIES. ALL SUSPENSIONS FROM SCHOOL WILL BE SERVED IN DETENTION."** (emphasis in original.) Some probation contracts include a parenthetical adding "(At Counselor's Discretion)" at the end of the paragraph. This provision is the only one out of thirteen provisions in the probation contract that is typed in all capitals and bold-faced font.

116. The term "In Detention" in the probation contract refers to incarceration in the Lauderdale County Juvenile Detention Center, or, after the recent closure of the Lauderdale County Juvenile Detention Center, the Rankin County Juvenile Detention Center ("RCJDC").

117. Youth counselors in Lauderdale County regularly modify this paragraph to add an additional handwritten clause stating how many days a child will automatically have to serve in detention for each suspension. These additional clauses may mandate up to fifteen days in detention for a school suspension.

118. No clause in the probation contract provides further information about the types of behavior for which a child can be suspended from school, or what type of allegations underlying a suspension will lead to detention.

119. As a result, the broad phrasing of the probation contract stating that any suspension from school will be served in detention does not provide sufficient notice to children about what type of behavior will lead to incarceration in the detention center.

120. The standard probation contract used in Lauderdale County also contains the following paragraph:

"I hereby certify that I have read or have had read to me the above agreement and understand that I am being placed on probation status by the Court on the condition that I comply with the above rules. I understand if I am accused or charged with violating any of these rules, then I may demand a court hearing. With agreement, I understand that if I violate these rules I can be required to spend between 8 hours to 7 days in detention in the Lauderdale County Juvenile Center and/or be required to work 8 hours to 80 hours community service or both. The amount and scheduling of my detention or community service shall be determined by my Counselor. I have the right to refuse detention or the community service. If I refuse, the court hearing for violation of probation will be granted to me. I fully understand that if found guilty at the court hearing, I may be committed to the training school. My counselor has the absolute right to institute a court hearing for violation of probation or parole and deny me these options.

121. Youth counselors themselves are unable to clearly explain what the language in the above paragraph means.

122. The language of this paragraph does not make it clear that children can exercise a right to a hearing on a probation violation without fear of repercussion. Rather, the language states that if a child requests a hearing, the community service or detention options can be denied, and the child may be committed to training school. The language implies that training school may be imposed as a penalty only for children who request a hearing for a revocation of probation.

123. The language of the probation contracts used in Lauderdale County vests a vast amount of discretion and authority in the youth counselors to determine what constitutes a probation violation and what punishment, including incarceration, a child will receive for such

violation. This authority and discretion is amplified by the lack of procedural safeguards available to children in connection with alleged probation violations.

Lauderdale County and the Division of Youth Services Do Not Provide Appropriate  
Procedures Related to Probation Violations

124. When a youth counselor interviews a child about an alleged probation violation, the youth counselor does not advise the child of his or her *Miranda* rights nor obtain an informed waiver of those rights.

125. The Youth Court does not regularly hold revocation hearings on probation violations.

126. Children under the jurisdiction of the Youth Court and their guardians do not understand that they may request revocation hearings on probation violations.

127. The only instances when the Youth Court holds a substantive hearing about a probation violation are when new charges are concurrently brought against a child and heard at an adjudication and disposition hearing.

128. Revocation or substantive hearings on probation violations are effectively unavailable to children under the supervision of the Youth Court.

129. Rather, in the Lauderdale County juvenile justice system, when a child is alleged to have violated probation and is incarcerated as punishment for a probation violation, the maximum procedural protection that child may receive is a "detention hearing" on a Tuesday or a Thursday, and recently, possibly on a Monday. At that point, the child may already have served two to four days in detention.

130. On information and belief, the detention hearing for a child on probation is not a hearing on the substantive violations, but, rather, only a dispositional hearing.

131. If the youth counselor or the Youth Court deems the time a child has already served incarcerated in the detention center to be sufficient punishment for the probation violation, the child is given “credit for time served” at the detention hearing. Other times, the Youth Court will order the child to serve an additional number of days incarcerated at the detention center to fulfill the requirements of the school suspension.

132. It is the practice of the Lauderdale County juvenile justice system to deem this type of incarceration for a probation violation an “informal” handling of the probation violation or an “informal adjustment.”

133. The “informal adjustment” form used by the Youth Court and DYS does not require the review or approval of a Youth Court Judge, but, rather, is signed only by the youth counselor, the child, and the child’s guardian.

134. Children are regularly incarcerated for days on probation violations through the “informal adjustment” process without an opportunity to challenge the allegations or the detention.

Children in the Meridian Public School District are Incarcerated by Lauderdale County and the Division of Youth Services for Suspensions from School Regardless of the Reason for

#### Suspension

135. Under the terms of the probation contract issued by the Lauderdale County juvenile system, including the Youth Court and the youth counselors, any suspension from school constitutes a violation of probation, regardless of the underlying reason for the suspension. Under the terms of the probation contract, these violations must be served incarcerated in the Juvenile Center.

136. Students in the District who are on probation under the supervision of the Lauderdale County juvenile system have been regularly incarcerated as a result of suspensions, including suspensions for: dress code infractions such as wearing the wrong color socks or undershirt, or having a shirt untucked; tardies; flatulence in class; using vulgar language; yelling at teachers; and going to the bathroom or leaving the classroom without permission.

137. When students in the District who are on probation under the supervision of the Lauderdale County juvenile system are suspended from school, the principal, security officer, or other administrator at the relevant District school has regularly called the Juvenile Center to inform Juvenile Center staff that a student has been suspended and therefore may have a probation violation.

138. After staff at the Juvenile Center receive a call notifying them that a student on probation has been suspended, a Youth Court Judge or Designee issues a custody order for the arrest of the student, and notifies MPD that the student is to be taken into custody and brought to the Juvenile Center.

139. The custody order does not require information about the underlying suspension or the alleged behavior, but instead indicates that a student has violated probation by being suspended and therefore directs the law enforcement officer to transport the child and detain that child at the Juvenile Center.

140. As a result of the policies and procedures described herein, children enrolled in the District who are on probation under the supervision of the Lauderdale County juvenile system serve time incarcerated for probation violations resulting from suspensions for alleged school infractions, without any access to meaningful procedural protections such as legal

counsel or a hearing to determine whether or not the child actually committed the alleged school infraction in the first place. Children are not afforded the opportunity to present witnesses on their behalf.

141. The use of incarceration in the Juvenile Center as a medium for school discipline is intentional on the part of the Defendants.

142. This intention is evidenced by the interdependency of the District, Youth Court, and Juvenile Center in Defendants' policies and the reliance of the District on MPD, County, and DYS to effectuate aspects of the District's disciplinary policies.

143. For example, some Behavior Intervention Plans prepared by the District for students with disabilities have listed "Juvenile Detention Center" as a consequence for student misbehavior.

144. The use of incarceration in the juvenile detention center as a consequence for District students with disabilities has serious repercussions, given that the District's rate of expulsions and out of school suspensions for students with disabilities with individualized education programs is approximately seven times higher than the rate for Mississippi schools generally.

145. The Youth Court is aware of the use of incarceration in the detention center as a direct consequence for youth on probation who are suspended by the District.

Lauderdale County Presently Incarcerates Children 80 Miles Away From Lauderdale County  
in the Rankin County Juvenile Detention Center

146. At the end of February 2012, Lauderdale County closed the detention facility portion of the Juvenile Center, citing longstanding legal battles over the conditions of confinement for children at the Detention Center, including failures to protect children from

harm, failures to provide adequate medical and mental health treatment, and unsanitary conditions. Lauderdale County now contracts with Rankin County to incarcerate children from Lauderdale County in RCJDC, approximately 80 miles away from Lauderdale County.

147. Children from Lauderdale County and the District who are incarcerated pending detention and adjudication hearings, as a result of adjudication and disposition in the Youth Court, or as a result of probation violations in Lauderdale County, now serve their incarceration approximately 80 miles away from their homes, families, and schools.

148. Children are now transported 80 miles back to Lauderdale County for Youth Court proceedings. Children do not have access to the appointed attorney or their youth counselors while incarcerated in RCJDC.

149. While awaiting their Youth Court proceedings, children are held in the Juvenile Center. They are held in their cells without education or other programming for the entire time they are in the Juvenile Center, with the exception of their Youth Court proceedings. This means that children may be held in their cell without programming from the early morning through mid-afternoon, except for the duration of their hearings.

Defendants Have Rebuffed Efforts of the Department of Justice to Investigate and Address the Violations

150. Since DOJ notified Meridian and the Youth Court of its investigation into these practices on December 1, 2011, Lauderdale County has consistently denied DOJ access to information about the policies and practices of the Youth Court, including the opportunity to observe the Youth Court, interview Youth Court and Juvenile Center staff, and review Youth Court files.

151. Additionally, Lauderdale County and Judges Coleman and Young have directed Meridian to deny DOJ access to law enforcement files concerning children referred from the District to MPD.

152. In refusing DOJ access, Lauderdale County and Judges Coleman and Young cited Mississippi Code § 43-21-259 and § 43-21-261, which provide confidentiality protections for juvenile records, including youth court and law enforcement records. However, Mississippi law also permits judges to authorize release of these records when it is in the best interests of the children, the public safety, or the functioning of the Youth Court. Defendants have continued to assert confidentiality concerns despite the authority of the Civil Rights Division of DOJ under federal statute to investigate allegations of constitutional and federal law violations in the administration of juvenile justice, DOJ's strict obligations regarding sensitive personal information under federal privacy laws, and the Civil Rights Division's long experience protecting the confidentiality of sensitive personal information, including incarcerated juveniles and court records.

153. After an initial period of cooperation with DOJ's investigation, Meridian has denied DOJ further access to information about the practices of MPD with respect to children referred by the District, and/or under the supervision of the Youth Court.

154. In their August 23, 2012 letter to DOJ, the City and County Defendants reiterated their refusal to provide DOJ access to youth records and Youth Court proceedings, and indicated that DOJ should seek federal court assistance in obtaining youth records. City and County Defendants repeated this statement in letters received by DOJ on September 24, 2012.

155. Although the State of Mississippi, through DYS, has provided some cooperation with DOJ's investigation, the State has denied DOJ access to juvenile records, citing the Mississippi State confidentiality provisions discussed above.

156. After being notified of DOJ's investigation and findings, Defendants have purportedly suspended or modified some of the police and probation policies or practices described herein.

157. In addition to the August 23, 2012 change in MPD policy described above, youth counselors in Lauderdale County reportedly were directed in late spring 2012 not to incarcerate students solely for school suspensions.

158. DYS asserted that it made unspecified changes to some State probation policies and forms on August 29, 2012, but these policies and forms continue to leave youth vulnerable to facing incarceration for alleged probation violations associated with the failure to follow school rules, suspension or expulsion, regardless of the underlying circumstances.

159. Defendants have denied DOJ access to information related to whether any of the directives described above have resulted in actual and meaningful changes in practice, and whether Defendants have taken sufficient steps to ensure that any unlawful practices actually suspended will not recur.

160. Defendants have not permanently changed their policies and practices to fully address and remedy the constitutional violations described herein.

161. Moreover, Defendants have not made any effort to address the procedural due process violations described in this Complaint, including, *inter alia*, the failure to make timely probable cause determinations, the failure to provide hearings for alleged probation violations, or the failure to provide meaningful representation by an attorney.

162. Defendants have not corrected the violations outlined in this Complaint, and it appears unlikely that they will do so without federal intervention.

**FIRST CLAIM FOR RELIEF**

*Violation of Fourth Amendment and 42 U.S.C. § 14141 against Defendant City of Meridian*

163. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 162 as though fully set forth herein.

164. Defendant City of Meridian, through MPD, violates the constitutional rights of juveniles who are students in the District by arresting them without probable cause.

165. The Fourth Amendment of the United States Constitution permits a police officer to arrest a suspect without a warrant only if there is probable cause to believe the suspect has committed or is committing an offense. The arresting officer must make an individualized assessment based on facts and circumstances particularized to the arrestee and known by the officer at the time of the arrest.

166. MPD engages in a pattern or practice of failing to require or to make individualized assessments of probable cause when arresting juveniles referred to MPD by the District.

167. Defendant City of Meridian's actions constitute a pattern or practice of violating the Fourth Amendment of the United States Constitution, and violate 42 U.S.C. § 14141.

168. Defendant's actions and/or omissions cause serious, irreparable, and lasting harm to children arrested by MPD, and these children will continue to suffer irreparable harm in the absence of relief.

**SECOND CLAIM FOR RELIEF**

*Violation of Due Process in Violation of Fourth, Fifth, and Fourteenth Amendments and 42 U.S.C. § 14141 against Defendants Lauderdale County, Judge Coleman, and Judge Young*

169. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 168 as though fully set forth herein.

170. Defendant Lauderdale County violates the due process rights of children subject to the jurisdiction of the Youth Court by engaging in a pattern or practice of denying them access to meaningful procedural protections in the juvenile justice process.

171. Under federal law, constitutional due process protections apply to children in the juvenile justice process.

172. The United States Supreme Court has described the minimum contours of these due process protections as including the provision of adequate and timely notice of charges and court proceedings to children and their guardians, representation by an attorney when incarceration is possible, protection against self-incrimination, an opportunity to cross-examine witnesses, and a probable cause determination by a judicial officer within 48 hours of a warrantless arrest.

173. Through the policies, procedures, and practices set forth above, Lauderdale County engages in a pattern and practice of denying children subject to the jurisdiction of the Lauderdale County Youth Court constitutionally required due process protections in the juvenile justice process, including representation by an attorney when incarceration is possible, a timely probable cause determination by a judicial officer when children are incarcerated prior to trial, protection against self-incrimination, and an opportunity to cross-examine witnesses.

174. The actions and/or omissions of Lauderdale County constitute a pattern or practice of violations of the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, and violate 42 U.S.C. § 14141.

175. Defendant Lauderdale County's violations of the constitutional rights of children subject to the jurisdiction of the Lauderdale County Youth Court causes serious, irreparable, and lasting harm to these children, and these children will continue to suffer irreparable harm in the absence of relief.

### **THIRD CLAIM FOR RELIEF**

*Violation of Procedural Due Process in Violation of Fifth and Fourteenth Amendments and 42 U.S.C. § 14141 against Defendants Lauderdale County, Judge Coleman, Judge Young, State of Mississippi, Department of Human Services, and Division of Youth Services*

176. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 175 as though fully set forth herein.

177. Defendants Lauderdale County and Division of Youth Services violate the constitutional due process rights of juveniles through their policies, procedures, and practices with respect to probation and probation revocation for children in the Lauderdale County juvenile justice system.

178. The probation contracts authorized, imposed, administered, and enforced by Defendants Lauderdale County and Division of Youth Services contain conditions that are not comprehensible to juveniles and cannot effectively inform juveniles of their procedural rights and protections.

179. Defendants Lauderdale County and Division of Youth Services do not provide constitutionally required probable cause hearings, or any procedural safeguards whatsoever, to juveniles alleged to have violated probation, even when incarceration and loss of liberty are possible consequences of the probation violation.

180. Defendants Lauderdale County and Division of Youth Services do not provide juveniles with appropriate protection against self-incrimination.

181. The actions and/or omissions of Defendants Lauderdale County and Division of Youth Services constitute a pattern or practice of violations of the Fifth and Fourteenth Amendments to the United States Constitution, and violate 42 U.S.C. § 14141.

182. Furthermore, Defendants' actions and/or omissions cause grievous, irreparable, and lasting harm to children subject to their jurisdiction and supervision, and these children will continue to suffer irreparable harm in the absence of relief.

**FOURTH CLAIM FOR RELIEF**

*Violation of Substantive Due Process in Violation of Fourteenth Amendment and 42 U.S.C. § 14141 against All Defendants*

183. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 182 as though fully set forth herein.

184. Defendants City of Meridian, Lauderdale County, and Division of Youth Services, working in concert, violate the substantive due process rights of juveniles through their policies, procedures, and practices with respect to incarcerating students for probation violations resulting from suspensions for alleged school disciplinary infractions.

185. Defendants' pattern and practice of incarcerating children for alleged school disciplinary infractions, without any procedural safeguards whatsoever, deprives children of their liberty by government action that is so arbitrary and abusive as to shock the conscience.

186. The policies, practices, and procedures employed by Defendants to incarcerate children for suspensions from school, rooted in the written probation contract used in Lauderdale County, are void for vagueness.

187. The probation contract used by Defendants does not provide children sufficient notice about the behavior which may constitute a probation violation in that it states that any suspension from school will result in incarceration, but does not describe or circumscribe the behavior for which a child may be suspended.

188. The probation contract vests a vast amount of discretion and authority in youth counselors and school staff and administrators to determine what constitutes a suspension and subsequent probation violation and what punishment, including incarceration, a child will receive for such violation. This authority and discretion is amplified by the lack of procedural safeguards available to children in connection with alleged probation violations.

189. Defendants have been put on notice of the severe and harmful effects of their policies and practices on children in the community.

190. The actions and/or omissions of Defendants City of Meridian, Lauderdale County, and Division of Youth Services constitute a pattern or practice of violations of the guarantee of substantive due process of the Fourteenth Amendment to the United States Constitution, and violate 42 U.S.C. § 14141.

191. Defendants' actions and/or omissions cause grievous, irreparable, and lasting harm to children subject to their jurisdiction and supervision, and these children will continue to suffer irreparable harm in the absence of relief.

#### **PRAYER FOR RELIEF**

WHEREFORE, the United States prays that the Court:

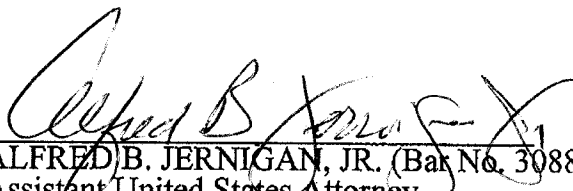
- a. Enter a judgment declaring that Defendants' policies, procedures, practices, and patterns of conduct, as alleged herein, violate the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, and 42 U.S.C. § 14141;

- b. Enter an order permanently enjoining Defendants from subjecting children under their jurisdiction and supervision from the unconstitutional and unlawful policies, procedures, practices, and patterns of conduct described above;
- c. Enter an order requiring Defendants to promulgate and effectuate policies that protect the constitutional rights of the children under their jurisdiction and supervision as described above;
- d. Enter an order for equitable relief including, but not limited to, the creation of alternatives to detention and juvenile justice processes for children, and review and expungement of youth records and provision of supports for children who have been harmed by Defendants' pattern or practice of constitutional violations, as alleged herein;
- e. Retain jurisdiction of this case until Defendants have fully complied with all orders of this Court, and there is a reasonable assurance that Defendants will continue to comply in the future absent continuing jurisdiction; and
- f. Order any such additional relief as the interests of justice may require.

Dated:

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